

RD AN No. 4209 (1980-E, 4287-B and 4280-B)
August 31, 2006

SUBJECT: Business and Industry Guaranteed Loan and Section 9006 Renewable Energy Systems and Energy Efficiency Improvement Guaranteed Loan Program - Submitting Servicing Action Requests to Rural Development (National Office)

TO: State Directors, Rural Development

ATTN: Business Programs Directors

PURPOSE/INTENDED OUTCOME:

To provide guidance on the information to be submitted to the National Office for Business and Industry (B&I) servicing action requests.

COMPARISON WITH PREVIOUS AN:

The previous AN on this subject, RD AN 4098, expired on July 31, 2006.

IMPLEMENTATION RESPONSIBILITIES:

In accordance with the administrative language contained in RD Instruction 4279-B, section 4279.165(e), the National Office Executive Loan (NOEL) and the National Office Business and Industry (NOBI) Committees will evaluate recommendations and recommend loan processing and/or servicing action(s) on all B&I Guaranteed and Direct Loan servicing actions that are in excess of delegated authorities given to State Directors.

RD Instruction 4287-B, Appendix A, Modification or Administrative Action, is the format for providing information on a servicing action request. This document is required and is a part of the Agency's published Instructions. As a reminder, all servicing actions exceeding your delegated authority must be submitted to the National Office for concurrence prior to approval.

EXPIRATION DATE:
September 30, 2007

FILING INSTRUCTIONS:
Preceding RD Instructions 1980-E, 4287-B
and 4280-B

Your request for Modification or Administrative Action must be in the proper format and include a complete explanation of the request, detailed analysis, supporting documentation, and the State Director's recommendation. Guaranteed loans must be supported by a recommendation from the lender. The information should include, at a minimum, the State Loan Committee minutes, prior related actions; available financial information (note any changes in financial conditions), documentation to support value of collateral, loan covenant violations and proposal to mitigate or correct violations; environmental concerns, with comments by the State Environmental Coordinator; Regional Attorney comments/opinions; any findings from lender and/or borrower visits, and any concerns of lender negligence, fraud and/or misrepresentation. All requests should address regulatory requirements; i.e., recommendations for liquidation should be accompanied by the documentation required in a liquidation plan. In summary, the request should include any and all information necessary to make an informed credit decision.

The Modification or Administrative Action requires program officials to communicate the request and provide justification for the recommendation (discuss the worse case scenario; i.e. what will happen if the proposed action is not taken). In addition to the Modification or Administrative Action form, the transmittal memorandum, with a recommendation, must be signed by the State Director or his/her designee.

A detailed review of the lender's financial analysis with comments from the lender and your office is required. The documentation should clearly identify the risk(s) to the Agency (best estimate of loss and potential negative implications). All alternatives should be clearly communicated and documentation included to support the proposed action as the best alternative for the Agency. If the borrower is out of compliance with the Loan Agreement, please provide this information and advise what actions are being taken to bring the borrower in compliance.

Requests involving legal concerns require legal review and must be reviewed by the Regional Attorney prior to submission to the National Office. Requests for National Office action should include opinions and/or Regional Attorney's comments.

When submitting B&I program requests to the National Office, including requests for servicing actions, please provide the information about the case in the revised format. This is the absolute minimum information needed. This will enable us to maintain a consistent record of the circumstances involved and to expedite your requests in a timely manner.

Request for waivers must include documentation to support why proposed actions are in the best interest of the United States Department of Agriculture. When considering a request for release of collateral, please refer to RD Instruction 4287.113 for additional guidance.

We appreciate the time-sensitive nature of servicing actions and provide these guidelines to facilitate expeditious responses to your request. Often, incomplete requests are submitted which prevent this office from evaluating loan servicing requests in a timely manner. A complete submission, which addresses the requirements of this AN, can assist us to improve customer service. Your assistance is greatly appreciated.

All Section 9006 Renewable Energy Systems and Energy Efficiency Improvement Guaranteed Loans are to be serviced in accordance with RD Instruction 4280-B, section 4280.152.

If you have any questions, please contact the Business and Industry Division Servicing Branch at (202) 690-4103 or the Specialty Lenders Division Servicing Branch at (202) 690-3809.

(Signed by Jackie J. Gleason)

JACKIE J. GLEASON
Acting Administrator
Rural Business and Cooperative Programs